



SPECIAL COMMON COUNCIL MEETING
February 4, 2014
(Postponed from February 3, 2014)
6 P.M.

Special Meeting

The Special meeting of the Common Council of the City of Middletown was held in the Council Chamber of the Municipal Building on Monday, February 4, 2014 at 6 p.m.

Present

Deputy Mayor Robert P. Santangelo and Council Members Thomas J. Serra, Mary A. Bartolotta, Hope Kasper, Grady L. Faulkner, Jr., Carl R. Chisem, Gerald E. Daley, James B. Streeto, Sebastian N. Giuliano, Deborah Kleckowski and David Bauer; Corporation Counsel Daniel B. Ryan, Sergeant-at-arms Police Chief William McKenna; and Common Council Clerk Marie O. Norwood.

Absent

Mayor Daniel T. Drew Council Member Sandra Russo Driska.

Also Present

Public Works Director William Russo, Deputy Finance Director Tayna Oliver Perry, Director of IT William Oliver, Water and Sewer Director Guy Russo, Parking Director Geen Thazhampallath, City Attorney Brig Smith, Acting Personnel Director Kathy Morey, Deputy Chief of Police Michael Timbro, Acting Parks and Recreation Acting Director Deb Stanley, Tax Assessor Damon Braasch, Fire Chief Gary Ouellette, Director of Communications Wayne Bartolotta, Director of Human Relations Faith Jackson, Director of Health Joseph Havlicek, MD, Arts Coordinator Stephan Allison, City and Town Clerk Linda Bettencourt, Emergency Management Director Bruce Driska, Russell Library Director Arthur Meyers, Youth Services Coordinator Justin Carbonella Joseph Samolis Administrative Aide to the Mayor and 4four members of the public.

Meeting Called to Order

The Acting Chair, Deputy Mayor Robert P. Santangelo calls the meeting to order at 6:01 p.m. and leads the public in the Pledge of Allegiance.

Call of Meeting Read

The Call of the meeting is read and accepted. The Acting Chair declares this call a legal call and the meeting a legal meeting.

Workshop Opens

The Acting Chair opens the Questions to Directors at 6:01 p.m.

Councilwoman Kasper asks to address questions to the City Attorney. Brig Smith, General Counsel comes forward to respond. She asks we have an item approving MOU. She states it has financial impact. Attorney Smith replies he is not sure what you are looking at and he can talk to the MOU in place.

Point of Information

Councilman Serra states it is here to possibly be on the agenda; he is not sure who sponsored it and to clean the parliamentary procedure, it would have to be moved and needs a 2/3's vote.

Councilwoman Kasper states we do have on the agenda the teamsters contract with the labor management approval and it was predicated on the MOU. Attorney Smith would like to see a copy. There is an MOU in place and entered into in 2013 and sets forth the labor management committee. He talks about the Council approving the contract and the MOU in place sets forth this go round of labor management to do six instead of three jobs. When negotiating, they did not do 3 from the prior year and they have three from this year. If you have a copy I can look at it and answer questions. Councilwoman Kasper states her question is that it does have financial impact. She states on the resolution it says classification review and does believe this Council did intend to have a job study for the Unions and wanted it to take place after the election. It did have financial impact and needs to come to us for approval because there are things in addition to what it says here as part of the condensed version of the MOU; we have the job study and the determination of Fair Labor act to determine nonexempt employees and substituting a fifth member to the labor management committee, a consultant and they all have financial impact. She asks if it is valid. Attorney Smith state yes; the first question, the answer is yes; it is valid because financial impact may or may not be there. It depends. It could have been when it was entered, they could have found none worth reclassification. If there are reclassifications, you can deal with it through salary reserves so you have already appropriated the money. Councilwoman Kasper responds no and explains how the salary reserve has been used. If it doesn't have a financial impact, she asks why there is an ordinance for them to come to the Council. She doesn't understand the extra three jobs being reviewed. Attorney Smith states the classification review, they are finalizing that and it will come to the Council. For this round, the Council ratified the CBA and the MOU that implements the CBA and it may or may not have financial impact. We think the MOU was properly implemented. Councilwoman Kasper states the MOU has the review and it failed to come to the Council. That is a huge cost and it did not get done. Attorney Smith responds that will come down the pike and you will have to approve the funding. Councilwoman Kasper states maybe we should wait until the report comes to us before looking at these reviews.

Councilman Giuliano states before I begin, what Councilwoman Kasper was referring to was provided in the Charter, Section 4 and he reads it. The MOU certainly appears to fall within that requirement. The question I

have is there would have been three that came up in the last year and three this year and we agreed to take on all six. He wants to be clear on the fiscal years they are talking about. Attorney Smith replies, looking at the MOU, the CBA dated July 2012 to 2015 and the fiscal year 2012-13 skipped three and 13-14 we added the three. Councilman Giuliano states the MOU is dated after the end of the fiscal year and there were none brought up in the fiscal year. How are we going back and having them get three bites of the apple. Attorney Smith replies because of the MOU which moved the labor management. Councilman Giuliano states it was understood it was retroactive. Why didn't that happen in the negotiations themselves if they knew that 3 claims were being held in the bank. That would have been provided for in the agreement instead of going back. He states to shift subjects, he asks about the \$60,000 and the scope of the investigation. Attorney Smith replies I gave info to Finance and Government Operations. It is to look at potential criminal allegations against the Chief of Police. There is a process internally through Director Jackson who investigates internal matters. For criminal matters, it is beyond her bailiwick. My job is to defend the City, so I can't look at this. They went to the State's Attorney and this is the protocol that the State's Attorney said we should follow. Do the fact finding and present to us and we will determine if there is a basis to pursue criminal actions. It is \$60,000 because they are using the former head of the State Attorney's Office and a former Federal Prosecutor. They are two federal attorneys and they are independent. We had an independent investigator and that person was tagged in a civil lawsuit. It comes down to he said she said. The protocol is to have two people hear the testimony to avoid this. Councilman Giuliano states would the report be made available to the Council. Attorney Smith responds yes. Councilman Giuliano responds under normal circumstances, it would be none of our business; the Mayor can investigate, but when it comes to us for \$60,000 you have involved us.

The Acting Chair asks if there are any further questions for this director.

Councilman Streeto states Councilwoman Kasper ended on a statement that you didn't respond to. Are there adverse consequences to delay this. Attorney Smith responds yes; if you look at the MOU and the collective bargaining agreement. There is a remedy for those disappointed by the process. The CBA states if the Council rejects or delays it, the employee can appeal to an arbitrator which will be binding. The odds are substantially long other than ratifying what the labor management committee recommends. Councilman Streeto states if we don't, we go to arbitration and we pay the lawyer fees and it would be approved. Attorney Smith states we would lose a substantial amount of cost for the arbitration itself. We do a lot in house, but it costs real money. Councilman Streeto states the other thing raised is a charter violation. Attorney Smith replies I don't see it; it talks about agreements with financial impact and they don't find one.

Councilman Faulkner states he doesn't know the salary ranges, do you know the grade of the finance director. Attorney Smith assumes it is the top grade, 23. Councilman Faulkner states in this process there is a discussion between both sides and the assistant be moved to a 20 from a 17; does that mean they have been doing work not in their description or doing it at the 20 and long overdue. Attorney Smith replies I think it is both. The committee hears that evidence and they come to a consensus what the grade ought to be. Councilman Faulkner asks if there is more than one; Attorney Smith responds there are two.

Councilwoman Kasper asks a follow up on Councilman Streeto's question. If we come up with a way that this wouldn't cause harm to the bargaining unit, would it be in arbitration. Attorney Smith replies I don't see how to do that. Councilwoman Kasper states my suggestion to postpone until the study is complete and make it retroactive. Attorney Smith replies we would look down the barrel of a losing arbitration.

The Acting Chair asks if there are other questions for this director.

Councilman Serra states the first question: do you advise us to put the MOU on the agenda. My thoughts are the action has been taken and it is retroactive and the authority of this Council to reject these job descriptions, is that necessary because there was not a financial impact. Attorney Smith responds there is no need to consider and pass the resolution Councilwoman Kasper showed me. If the Council decides to pass it, that is no harm no foul and not ratifying it there is a problem. The draft resolution says it ratifies the MOU which has been ratified and if you retroactively ratify it there is no problem. Councilman Serra states if we don't ratify it we violate the contract. Attorney Smith replies safest is not to do anything. Councilman Serra states there is no financial impact and with the projected upgrades through salary reserves, therefore no financial impact because it was budgeted and we do this when it happens. Attorney Smith replies that is fair statement. Councilman Serra states it is not necessary to put it on the agenda. Attorney Smith advise against it.

Councilman Bauer believes the Charter is clear that it is the purview of the Council alone to define the job descriptions. Attorney Smith responds they are under the Council's purview. Councilman Bauer states with the changes laid in front of us and we have to go along with it and we have the implications you laid out before us. Doesn't the Council have the final say and if in fact there has been job creep and the Council has the right to say the job description is correct and advise the employee adhere to the job and reject the job creep. Attorney Smith replies no. He reads what the Charter actually says regarding personnel policy and the classified service. It doesn't occur in a vacuum. It occurs with a body of law including MERA and bargaining agreements. That is why I say no to the question. With the law, you have got to be careful.

Councilwoman Bartolotta asks if one of the employees coming out of this committee has concerns not all of their job description changes were addressed would they be able to grieve the process. Attorney Smith responds that would be difficult and it would be through the Union and they would decide. That would be their issue. Councilwoman Bartolotta asks the City side; we agreed upon this committee. Attorney Smith explains the committee and its process. His sense they would listen to the complaint but would not pursue it because we agreed to the process. Councilwoman Bartolotta states the City gave carte blanche to the committee; whatever they say, that is it. Attorney Smith responds we want to be careful not to get into it; the Union may want to negotiate it. It has to come through the Union. The process is formal and we could build a better one. The issue should be brought to the Union and if it is something to negotiate, then the Council would consider it. Councilman Daley asks about the grievance procedure and it would give an employee a right to grieve a violation of the contract and other than that the Union is the sole bargaining agent for the employee. Attorney Smith replies that is his point about direct dealing. Councilman Daley states regarding the comments of

Councilman Bauer, in the wording of the MOU it references upon approval of the Council and the Council does retain its right to have the final word over content of the job description and pay grade. It is straight forward. You made an excellent point; we would be on dangerous territory to take up the MOU and not ratify it. Then we are in a tenuous situation. It is irresponsible to even consider it.

The Acting Chair asks if there are questions for this director or any other. Councilman Bauer asks to address questions to the Tax Assessor.

Point of Information

Councilman Serra states as a point of information, he will request that the Grand List Report be added to the agenda under communications if there is no objection; then, we can entertain questions to this director.

Councilman Bauer asks for Tax Assessor. Damon Braasch to come forward. Councilman Bauer states he is in receipt of the Grand List report and the one question he asks is you did give an overall decrease of 7%. Could you analyze the percentage changes in the various elements. Mr. Braasch states he can format that. There were increases in Motor Vehicle and Personal Property. He points out a summary of the report; if revaluation did not occur, there would have been an increase in the grand list.

Councilwoman Kasper asks the total grand list, does that include all the appeals after the assessments were sent out. Mr. Braasch responds yes. Councilwoman Kasper asks all appeals decided and are part of the report. Mr. Braasch replies yes.

Councilman Bauer is recognized and asks to address questions to William Russo, Director of Public Works. He states the improvements to the tennis courts there is a public hearing on the agenda. We have two public hearings and, he asks if he can have more detail because there was a range for the options and he would like back-up detail on how the number was arrived at. Mr. Russo defers to the Mayor's Office. Joe Samolis comes forward. He states regarding the authorization that number encompasses the top of the line repairs that were mentioned at that meeting you referenced. The \$749,000 is to upgrade everything possible including new fencing, the track and cleaning up the area behind the bleachers. You are looking at the aggregate and it is really at the maximum. Councilman Bauer asks that they provide the detail and it will give him assurance it is not scaled down but obligating ourselves to additional money in the future. Mr. Samolis replies he can give it to you.

Councilman Streeto states he just wanted to beg the Council's indulgence to ask that Mr. Russo be sent home since we are expecting a little bit of snow and he will be having a long evening.

Councilwoman Kasper asks to address questions to the Chief of Police. William McKenna comes forward. Councilwoman Kasper states we have the Manager of Accreditation job description and we spoke about this at length at the Public Safety meeting and one of the things being removed is the maintenance of police policies. Would you approve that change. She thought that might be an oversight. Chief of Police McKenna responds he did not see that it was removed and reassures the Council that this employee has been manager of accreditation and they are moving ahead and reviewing policy and the employee will do what she has in the past in terms of accreditation and we have reassigned a lieutenant to help. It will be a team effort. Councilwoman Kasper asks about adding POSTC training to the job description. Chief of Police McKenna states she may attend some POSTC classes and I believe on your first question, it was redundant. It also appears on the top of the page. Attorney Smith states the POSTC is new and the policies are discussed in another place. Chief McKenna states POSTC is the training management system. She gets involved with configuration and upgrades of the scheduling system and this is an NCIC system and she will get training. Councilwoman Kasper asks where the redundancy is. Chief of Police McKenna states Page 2 at the very top, the first bullet and the redundancy would be the fifth one down. Councilwoman Kasper states she would rather see it there that there is no question.

Councilman Serra states not for this director but the Tax Assessor, Damon Braasch. He states we didn't go down the worst in CT. He asks about the reassessment of exempt property and it is \$275 million which is 22%. How did we miss that in the past and what does that realize for revenue for what the State has been giving us. Mr. Braasch states there has not been much attention to their value because they are exempt. We don't know the impact because the State puts aside a pot of money and what this will likely do is open the percentage a little more and Middletown might have a larger slice. Councilman Serra states it is 22% so we should expect 22% more? Mr. Braasch replies I can't assure you of that. Councilman Serra states we will submit this to the State. Mr. Braasch replies it assumes it will pay at constant levels, but it should increase. Councilman Serra asks that Mr. Braasch send it to our State delegation and say it came from the Council.

Meeting Adjourned

Councilman Bauer moves to adjourn and his motion is seconded by Councilman Serra. The vote is unanimous and the Acting Chair declares the meeting adjourned at 6:48 p.m.

ATTEST:

MARIE O NORWOOD
Common Council Clerk